

Before the
Administrative Hearing Commission
State of Missouri



ENHANCED QUALITY OF LIFE, LLC
ADULT DAY PROGRAM,

Petitioner,

vs.

DEPARTMENT OF SOCIAL SERVICES,
MISSOURI MEDICAID AUDIT AND
COMPLIANCE UNIT,

Respondent.

No. 14-0078 SP

DECISION

We dismiss the complaint filed by Enhanced Quality of Life LLC Adult Day Program (“Enhanced Quality”) for lack of jurisdiction.

Procedure

On January 16, 2014, Enhanced Quality filed a complaint by certified mail to appeal a final decision of the Department of Social Services (the “Department”), Missouri Medicaid Audit and Compliance Unit (“MMAC”) imposing a recoupment sanction. The Department filed a motion to dismiss the complaint and suggestions in support on February 24, 2014. We notified Enhanced Quality on February 26 that any response to the motion should be filed by March 12, 2014, but it filed nothing.

We treat the Department's motion as one for summary decision because it relies on evidence outside of the pleadings.¹ In order to prevail on a motion for summary decision, the Department must set out undisputed facts that entitle it to a favorable decision.² Parties may establish facts by admissible evidence.³

Attached in support of the Department's motion are authenticated business records of the Department, which are admissible evidence. Section 536.070(9).⁴ We make the following findings of fact based on that evidence and the pleadings filed by Enhanced Quality.

Findings of Fact

1. Enhanced Quality is a provider of adult health care services to MO HealthNet eligible participants.
2. By certified mail sent on December 11, 2013, the Department's MMAC notified Enhanced Quality of its final decision to issue a recoupment sanction in the amount of \$6246.20 for billing errors identified in a post-payment review of Enhanced Quality's MO HealthNet claims (the "final decision letter").

3. The final decision letter also notified Enhanced Quality:

This is a final decision regarding administration of the medical assistance program in Missouri. Missouri Statute, Section 208.156, RSMo (2000) provides for appeal of this decision.

If you were adversely affected by this decision, you may appeal this decision to the Administrative Hearing Commission. To appeal, you must file a petition with the Administrative Hearing Commission within 30 days from the date of mailing or delivery of this decision, whichever is earlier; except that claims of less than \$500 may be accumulated until such claims total that sum and, at which time, you have 90 days to file the petition. If any such

petition is sent by registered mail or certified mail, the petition will be deemed filed on the date it is mailed. If any such petition is sent

¹ 1 CSR 15-3.436(4)(A). All references to the CSR are to the Missouri Code of State Regulations as current with amendments included in the Missouri Register through the most recent update.

² 1 CSR 15-3.446(6)(A).

³ 1 CSR 15-3.446(6)(B).

⁴ RSMo Supp. 2013. Statutory references are to the 2000 Missouri Revised Statutes unless otherwise noted.

by any method other than registered mail or certified mail, it will be deemed filed on the date it is received by the Commission.
Appealing this decision can only be made to the Administrative Hearing Commission and not to MMAC or MHD.

4. Enhanced Quality filed its complaint with this Commission by certified mail on January 16, 2014, more than thirty days after December 11, 2013.

Conclusions of Law

The Department's motion asserts that Enhanced Quality's complaint is untimely filed. Section 208.156, the source of our jurisdiction in MO HealthNet provider appeals, requires that a petition for review must be filed with this Commission within "thirty days from the date of mailing or delivery of a decision[.]"⁵ The final decision letter apprised Enhanced Quality of this requirement in the very language required by law.⁶

Because the Department sent its decision letter by certified mail on December 11, 2013, Enhanced Quality had thirty days from that date to file its petition for review. Enhanced Quality filed its complaint on January 16, 2014, 36 days after the mailing date of the final decision letter.

The untimely filing of Enhanced Quality's complaint deprives us of jurisdiction to hear it.⁷ If we have no jurisdiction to hear the complaint, we cannot reach the merits of the case and can only exercise our inherent power to dismiss.⁸

Summary

Enhanced Quality's complaint was untimely filed. We dismiss it for lack of jurisdiction, and cancel the hearing.

SO ORDERED on March 17, 2014.

\s\ Mary E. Nelson
MARY E. NELSON
Commissioner

⁵ Section 208.156.8.

⁶ See § 621.055.3, RSMo Supp. 2013.

⁷ *Community Fed. Sav. & Loan Assoc. v. Director of Revenue*, 752 S.W.2d 794, 799 (Mo. 1988); *Springfield Park Cent. Hosp. v. Director of Revenue*, 643 S.W.2d 599, 600 (Mo. 1984).

⁸ *Oberreiter v. Fullbright Trucking*, 24 S.W.3d 727, 729 (Mo. App. E.D. 2000).